

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

PARVEEN AHMAD,

No. 3:23-cv-00808-JR

Plaintiff,

ORDER

v.

BANK OF AMERICA, N.A., et al.,

Defendants.

HERNÁNDEZ, District Judge:

Magistrate Judge Russo issued a Findings and Recommendation on March 1, 2024, in which she recommends that the Court grant Defendants’ Motion for Judicial Notice and deny Plaintiffs’ Motion to File an Amended Complaint. F&R, ECF 38. The matter is now before the Court pursuant to 28 U.S.C. § 636(b)(1)(B) and Federal Rule of Civil Procedure 72(b).

Because no objections to the Magistrate Judge’s Findings and Recommendation were timely filed, the Court is relieved of its obligation to review the record *de novo*. *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc); *see also United States v.*

Bernhardt, 840 F.2d 1441, 1444 (9th Cir. 1988) (*de novo* review required only for portions of Magistrate Judge’s report to which objections have been made).

The Court declines to adopt Judge Russo’s recommendation to grant Defendants’ Motion for Judicial Notice. Under FRE 201, “[t]he court may judicially notice a fact that is not subject to reasonable dispute because (1) it is generally known within the trial court’s territorial jurisdiction; or (2) can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.” The Court finds that judicial notice of the information in the affidavit and associated postal documents is not appropriate. *See Rivera v. Philip Morris, Inc.*, 395 F.3d 1142, 1151 (9th Cir. 2005) (“Because the effect of judicial notice is to deprive a party of an opportunity to use rebuttal evidence, cross-examination, and argument to attach contrary evidence, caution must be used in determining that a fact is beyond controversy under Rule 201(b).”); *see also Shareef v. McHugh*, No. CV 16-00509 ACK-KJM, 2017 WL 754326, at *5 (D. Haw. Feb. 27, 2017) (“Courts differ on whether postal records are appropriate for judicial notice.”). The Court, however, agrees with Judge Russo that Plaintiff has failed to allege sufficient facts to support her claim that notice was insufficient under the Oregon Trust Deed Act.

Having reviewed the remaining legal principles *de novo*, the Court finds no other error.

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CONCLUSION

The Court ADOPTS in part and DECLINES TO ADOPT in part Magistrate Judge Russo's Findings and Recommendation [38]. Accordingly, Defendants' Motion for Judicial Notice [36] is DENIED, and Plaintiff's Amended Motion for Leave to File Amended Complaint/Petition [34] is DENIED. Any motion to amend the complaint must be filed within 30 days of this Order.

IT IS SO ORDERED.

DATED: May 5, 2024.



MARCO A. HERNÁNDEZ
United States District Judge